

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,

v.

ROBERT MENENDEZ

and

SALOMON MELGEN,

Defendants.

Crim. No. 2:15-cr-00155

Hon. William H. Walls

DEFENDANTS' SUMMARY CHART OF MOTIONS TO DISMISS

Abbe David Lowell
Jenny R. Kramer
Christopher D. Man
Scott W. Coyle
CHADBOURNE & PARKE LLP
1200 New Hampshire Avenue, N.W.
Washington, D.C. 20036
(202) 974-5600

Kirk Ogrosky
Murad Hussain
ARNOLD & PORTER LLP
555 12th Street, N.W.
Washington, DC 20004
(202) 942-5330

Raymond M. Brown
GREENBAUM ROWE SMITH & DAVIS LLP
Metro Corporate Campus One
P.O. Box 5600
Woodbridge, NJ 07095
(732) 476-3280

Matthew I. Menchel
Michael C. Fasano
KOBRE & KIM LLP
2 South Biscayne Boulevard, 35th Floor
Miami, FL 33131
(305) 967-6108

Stephen M. Ryan
Thomas J. Tynan
MCDERMOTT WILL & EMERY LLP
500 North Capitol Street, N.W.
Washington, D.C. 20001
(202) 756-8000

*Counsel for Defendant
Senator Robert Menendez*

*Counsel for Defendant
Dr. Salomon Melgen*

Pursuant to Federal Rule of Criminal Procedure 12(b)(3), Defendants Senator Menendez and Dr. Melgen are filing the following 15 motions to dismiss the Indictment as a whole or in part. Defendants believe that a significant number of dispositive motions are required at this time to address the large number of prosecutorial charging errors in this case. While many of these motions apply to all Defendants and the entire Indictment, others apply only to certain Defendants and/or certain counts. To assist the Court in its consideration of the various motions, the Defendants have numbered these motions and submit this chart identifying each motion to dismiss by number, title, the Defendant it applies to and the counts addressed. When referencing the motions, Defendants have abbreviated them as MTD, followed by their respective number.¹

¹ Several of these motions make reference to grand jury materials that Defendants were provided by the prosecution in the course of discovery. Although defense counsel did not believe the protective order would require the motions be filed under seal, they consulted the government as to whether the government would prefer they be filed under seal. The government responded, “we agree that it makes sense to file these types of pleadings on the public docket.” (Email from P. Koski to A. Lowell of 7/17/15.) Even prior to this agreement, much of the grand jury material addressed in the motions had been unsealed by the Third Circuit. In re Grand Jury. Investig. (Menendez), No. 14-4678 (3d Cir. June 23, 2015) (unsealing order).

| MTN # | TITLE | DEFENDANTS | CTS |
|-------|--|-------------------------------|-------------|
| 1 | SENATOR MENENDEZ'S MOTION TO DISMISS THE INDICTMENT BECAUSE ALL CHARGES AGAINST HIM DEPEND ON PROVING ALLEGATIONS THROUGH EVIDENCE THAT IS INADMISSIBLE BY THE SPEECH OR DEBATE CLAUSE | Senator Menendez ² | All |
| 2 | SENATOR MENENDEZ'S MOTION TO DISMISS THE INDICTMENT BASED ON VIOLATIONS OF THE SPEECH OR DEBATE CLAUSE BEFORE THE GRAND JURY | Senator Menendez | All |
| 3 | DEFENDANTS' MOTION TO DISMISS THE INDICTMENT DUE TO THE PROSECUTION PROVIDING FALSE TESTIMONY TO THE GRAND JURY AND COMPROMISING THE GRAND JURY'S INDEPENDENCE | Both | All |
| 4 | DEFENDANTS' MOTION TO DISMISS THE INDICTMENT FOR ERRONEOUS INSTRUCTIONS TO THE GRAND JURY ON SPEECH OR DEBATE CLAUSE LAW, FIRST AMENDMENT LAW AND OTHER ISSUES | Both | All |
| 5 | MOTION TO DISMISS FOR GRAND JURY BIAS | Both | All |
| 6 | DEFENDANTS MOTION TO DISMISS THE INDICTMENT BASED ON PROSECUTORIAL MISCONDUCT AND INVESTIGATORY ABUSES | Both | All |
| 7 | DEFENDANTS' MOTION TO DISMISS THE INDICTMENT FOR A LACK OF SPECIFICITY UNDER THE FIFTH AND SIXTH AMENDMENTS | Both | All |
| 8 | DEFENDANTS' MOTION TO DISMISS COUNTS 1-21 FOR VIOLATION OF THE FIRST AMENDMENT | Both | Counts 1-21 |

² Dr. Melgen has not joined Senator Menendez's motions concerning the Speech or Debate Clause (MTD Nos. 1 & 2), simply because Dr. Melgen lacks standing to invoke the Clause. In the event that the Court's disposition of those motions were to present issues bearing on Dr. Melgen's ability to mount his defense, he reserves the right and has good cause to address such issues through an appropriate motion to the Court, including a motion to dismiss some or all charges.

| | | | |
|----|---|------------------|------------------------|
| 9 | DEFENDANTS' MOTION TO DISMISS COUNTS 15- 18 AND TO STRIKE ALL OVERT ACTS OF COUNT 1 CONCERNING MAJORITY PAC | Both | Counts 1-21 |
| 10 | DEFENDANTS' MOTION TO DISMISS COUNTS 1-21 FOR FAILURE TO ALLEGE AN "OFFICIAL ACT" WITHIN THE MEANING OF THE BRIBERY STATUTE | Both | Counts 1-21 |
| 11 | DEFENDANTS' MOTION TO DISMISS THE CONSPIRACY CHARGED IN COUNT 1 | Both | Count 1 |
| 12 | DEFENDANTS' MOTION TO DISMISS THE TRAVEL ACT (COUNT 2) AND MAIL AND WIRE FRAUD COUNTS (COUNTS 19-21) | Both | Counts 1, 9-21 |
| 13 | SENATOR MENENDEZ'S MOTION TO DISMISS COUNT 22 | Senator Menendez | Count 22 |
| 14 | DEFENDANTS' MOTION FOR THE PROSECUTION TO ELECT DISMISSAL OF MULTIPLICITOUS COUNTS PURSUANT TO THE DOUBLE JEOPARDY CLAUSE | Both | Counts 3, 5, 15, 19-21 |
| 15 | DR. SALOMON MELGEN'S MOTION TO DISMISS THE INDICTMENT, TO SUPPRESS EVIDENCE, AND FOR A FRANKS HEARING BASED ON ILLEGAL SEARCH AND SEIZURE | Dr. Melgen | All |

Respectfully submitted,

/s/ Abbe David Lowell

Abbe David Lowell

Jenny R. Kramer

Christopher D. Man

Scott W. Coyle

CHADBOURNE & PARKE LLP

1200 New Hampshire Avenue, N.W.

Washington, D.C. 20036

adlowell@chadbourne.com

(202) 974-5600

/s/ Kirk Ogrosky

Kirk Ogrosky

Murad Hussain

ARNOLD & PORTER LLP

555 12th Street, N.W.

Washington, DC 20004

Kirk.Ogrosky@aporter.com

(202) 942-5330

Raymond M. Brown

GREENBAUM ROWE SMITH & DAVIS LLP

Metro Corporate Campus One

P.O. Box 5600

Matthew I. Menchel

Michael C. Fasano

KOBRE & KIM LLP

2 South Biscayne Boulevard, 35th Floor

Woodbridge, NJ 07095
rbrown@greenbaumlaw.com
(732) 476-3280

Miami, FL 33131
matthew.menchel@kobrekim.com
(305) 967-6108

Stephen M. Ryan
Thomas J. Tynan
MCDERMOTT WILL & EMERY LLP
500 North Capitol Street, N.W.
Washington, D.C. 20001
sryan@mwe.com
(202) 756-8000
Counsel for Defendant
Senator Robert Menendez

Counsel for Defendant
Dr. Salomon Melgen